

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

DANNY LEE BYRD,)	
)	
Movant,)	
)	
v.)	No. 1:16CV103 HEA
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

AMENDED OPINION, MEMORANDUM AND ORDER

Before the Court is movant’s motion to vacate, brought pursuant to 28 U.S.C. § 2255. In his motion to vacate, movant seeks a reduction in his sentence pursuant to the recent Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

In *Johnson*, the Supreme Court of the United States held the “residual clause” of the Armed Career Criminal Act (“the ACCA”), 18 U.S.C. § 924(e)(2)(B)(ii), unconstitutionally vague. As movant was convicted under the ACCA and as it appears from the motion to vacate that he is relying on *Johnson* as the basis for his arguments for resentencing, this Court will request assistance from the United States Probation Office for the Eastern District of Missouri in reviewing movant’s § 2255 petition.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall notify the United States Probation Office of movant’s § 2255 motion to vacate and that it is brought pursuant to the Supreme Court case of *Johnson v. United States*, 135 S.Ct. 2551 (2015).

IT IS FURTHER ORDERED that, within three weeks of the date of this Order, the United States Probation Office shall prepare and file in movant’s criminal case a new Resentence

Report relative to movant's contentions under *Johnson*, which shall be filed under seal, with access to the Court and the parties who have entered their appearance in this matter.

IT IS FURTHER ORDERED that within five (5) days of the filing of the Probation Office's Disclosure Copy of the Resentence Report, the parties shall file, in movant's criminal case, simultaneous objections to the Resentence Report or statements that they have no objection. Within seven (7) days of such time, the United States Probation Office shall file a final copy of the Resentence Report in movant's criminal case.

IT IS FURTHER ORDERED that a hearing on this matter is set for Monday, December 3, 2018, at 11:00 a.m. in the courtroom of the undersigned.

Dated this 22nd day of October, 2018.

A handwritten signature in black ink, reading "Henry Edward Autrey", is written over a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE